THE HON'BLE SRI JUSTICE T.CH.SURYA RAO
AND
THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

W.P.NOs.20825, 20826, 20827 and 20828 OF 2006

DATED: 04.10.2006

Between:

M/s.Yennela Shan Engineering Company … petitioner.

And

The Additional Commissioner (CT) Legal,
O/o. the Commissioner of Commercial Taxes,
Hyderabad
And others. … Respondetns.

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COMMON ORDER:

Since common questions of law and fact are involved, all these writ petitions can be disposed of together.

The petitioner-assessee seeks to file these writ petitions for issuance of a writ of mandamus or any other appropriate order or direction declaring the action of the fourth respondent herein in having issued the Form-I distraint order dated 22.8.2006 under the Revenue Recovery Act directing the petitioner to pay the amounts particularly when the statutory appeals are pending adjudication before the Sales Tax Appellate Tribunal in T.A.Nos.94, 95, 92 and 93 of 2003 respectively.

Obviously, appeals are pending before the Sales Tax Appellate Tribunal. When the concomitant applications had been filed with the same relief, the learned Tribunal rejected the application thereby refusing to grant any stay. Consequently, the distraint order has been followed.

Having regard to the fact that the appeals are pending, it is expedient in the interest of justice to pass appropriate orders directing

the respondents not to take the necessary steps for distraint of the property on the condition of the petitioner depositing half of the disputed tax pending disposal of the appeal, so that the appeal can be heard and disposed of on merits and that will subserve, in our considered view, the interest of the revenue as well as the assessee.

The writ petitions are accordingly disposed of granting stay on the condition of the petitioner depositing half of the disputed tax pending disposal of the appeals pending adjudication before the Appellate Tribunal, within six weeks from the date hereof. If any payment is made earlier, obviously that shall have to be given credit to from out of the amount to be deposited.

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(JUSTICE T.CH.SURYA RAO)

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(JUSTICE R.SUBHASH REDDY)

Dt:04.10.2006
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